

H-2015, P-513/PA-90 ORDER ALLOWING TRANSFER OF FOUR SHARES OF  
DANUBE STOCK

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson  
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Patrice M. Vick

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Joint  
Petition of Danube Telephone  
Company and Telephone and Data  
Systems, Inc. for Approval of  
the Acquisition of a Majority of  
the Outstanding Shares of Stock  
of Danube Telephone Company by  
TDS Telecommunications  
Corporation, a Wholly-owned  
Subsidiary of Telephone and Data  
Systems, Inc.

ISSUE DATE: February 19, 1991

DOCKET NO. H-2015, P-513/PA-90-  
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SHARES OF DANUBE STOCK

**PROCEDURAL HISTORY**

Danube Telephone Company (Danube) is a Minnesota corporation providing local exchange service to approximately 430 customers in the Danube service area of southern Minnesota.

Telephone and Data Systems, Inc. is a telephone holding company which owns and operates approximately 80 independent telephone companies in 27 states. TDS Telecommunications Corporation (TDS) is a wholly-owned subsidiary of Telephone and Data Systems, Inc. Danube and TDS reached an agreement in which TDS would acquire a majority of the outstanding shares of Danube stock. TDS made an offer to Danube stockholders to buy Danube shares through the exchange of TDS common stock, or in the alternative by paying \$13,350 per share. On August 28, 1990, Danube and TDS filed a joint petition seeking Commission approval of the acquisition.

On December 27, 1990, the Department of Public Service (the Department) filed its Report and Recommendation. During its investigation the Department had found that allegations of insider trading of Danube stock were under investigation by the Minnesota Department of Commerce and the Renville County Attorney. Certain former holders of Danube stock alleged that in February of 1989, before negotiations with TDS took place, certain Danube officials and their families had acquired stock from individuals without revealing significant "insider" information which would have influenced price.

Additional documents filed with the Commission indicated that nine former Danube shareholders had filed a civil suit in U.S. District Court in Minneapolis against officers of Danube

Telephone Company as well as the Americana Bank of Danube. Becker et al v. American Bank of Danube et al., Civil Action No. CV4-90-777. The plaintiffs in the action alleged that the defendants had violated federal and state securities law as well as the federal racketeering law, and had committed common law fraud.

On January 31, 1991, the Commission issued its ORDER APPROVING ACQUISITION OF DANUBE STOCK BY TDS EXCEPT FOR CERTAIN SHARES. In that Order the Commission separated outstanding shares of Danube stock into two categories: shares which were not subject to dispute and twelve Disputed Shares. The twelve Disputed Shares were subject to investigation, civil suit, or both. The Commission allowed the immediate transfer of nondisputed shares, but required that safeguards be implemented with the transfer of any Disputed Share.

On February 6, 1991, the attorney for plaintiffs in the civil suit petitioned the Commission for approval of the transfer of four shares of Danube stock. Four plaintiffs had reached a settlement in which each individual would receive one share of Danube stock from certain defendants, together with rights and interests in the buyout agreement between Danube Telephone Company and TDS. The plaintiffs and the current holders of the stock requested Commission approval of the transfer, pursuant to the January 31, 1991 Commission Order.

The Commission met to consider the transfer on February 12, 1991.

#### FINDINGS AND CONCLUSIONS

In its January 31, 1991 Order, the Commission sought to protect the interests of both ratepayers and shareholders of Danube Telephone Company. The majority of Danube shareholders were allowed to transfer their nondisputed stock immediately, without any delay of economic gain. At the same time, safeguards were put into place to ensure that Danube ratepayers were not affected adversely by the ongoing investigations and litigation. A number of filings were required of the parties so that there would be no premature transfers of Disputed Shares, while controversy still surrounded the ownership and value of the shares.

At Ordering Paragraph No. 5 of the January 31 Order, the Commission stated:

    Holders of stock which has been subject to investigation or litigation referred to in the body of this Order, who wish to transfer their shares following resolution of the investigation or litigation, must petition the Commission for approval to transfer said shares.

The proposed transfer falls under the requirements of the above paragraph. The four shares were the subject of civil litigation as described in the January 31 Order. The holders of the stock now wish to transfer their shares following resolution of the litigation through settlement.

The Commission finds that the ratepayers and stockholders of Danube Telephone Company will be sufficiently protected if the Commission allows the transfer. The four plaintiffs and two defendants in the civil suit have reached a Court-sanctioned settlement of the ownership of the stock. The four plaintiffs who receive the stock will also receive all rights and interests in the Danube-TDS buyout agreement, so value of the stock is no longer a subject of dispute. Danube ratepayers are thus protected from premature transfer of these four Disputed Shares, because issues of ownership and value have been settled.

The parties have conformed to the Commission's compliance requirements. The Commission will approve the transfer of the four shares. The Commission reminds TDS of the requirements of Ordering Paragraph No. 3 of the January 31 Order:

Within 30 days of a final judgment or settlement of the federal District Court proceeding, File No. CV 4-90-777, TDS shall submit a compliance filing to inform the Commission of the resolution of issues regarding the disputed shares.

#### **ORDER**

1. The transfer of three Danube Telephone Company shares held by Larry De Vries to Laura Schafer, Eileen Sommers, and Marcella Sommers, and the transfer of one Danube share from Kenneth Potter to Evelyn Becker, pursuant to settlement agreements, is approved.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)